

the servicer of that determination. The show-cause official may explain that determination by adopting or modifying the statement of reasons provided in the notice of emergency action.

(f)(1) An emergency action does not extend more than 30 days after initiated unless the Secretary initiates a limitation, suspension, or termination proceeding under this part or under 34 CFR part 600 against the institution or servicer, as applicable, within that 30-day period, in which case the emergency action continues until a final decision is issued in that proceeding, as provided in § 668.90(c), as applicable.

(2) Until a final decision is issued by the Secretary in a proceeding described in paragraph (f)(1) of this section, any action affecting the emergency action is at the sole discretion of the initiating official, or, if a show-cause proceeding is conducted, the show-cause official.

(3) If an emergency action extends beyond 180 days by virtue of paragraph (f)(1) of this section, the institution or servicer, as applicable, may then submit written material to the show-cause official to demonstrate that because of facts occurring after the later of the notice by the initiating official or the show-cause meeting, continuation of the emergency action is unwarranted and the emergency action should be modified or ended. The show-cause official considers any written material submitted and issues a determination that continues, modifies, or revokes the emergency action.

(g) The expiration of an emergency action, or its modification or revocation by the show-cause official, does not bar subsequent emergency action on a ground other than one specifically identified in the notice imposing the prior emergency action. Separate grounds may include violation of an agreement or limitation imposed or resulting from the prior emergency action.

(Authority: 20 U.S.C. 1094)

[59 FR 22445, Apr. 29, 1994, as amended at 60 FR 34432, June 30, 1995; 63 FR 40626, July 29, 1998; 64 FR 59042, Nov. 1, 1999]

§ 668.84 Fine proceedings.

(a) *Scope and consequences.* (1) The Secretary may impose a fine of up to \$27,500¹ per violation on a participating institution or third-party servicer that—

(i) Violates any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA; or

(ii) Substantially misrepresents the nature of—

(A) In the case of an institution, its educational program, its financial charges, or the employability of its graduates; or

(B) In the case of a third-party servicer, as applicable, the educational program, financial charges, or employability of the graduates of any institution that contracts with the servicer.

(2) If the Secretary begins a fine proceeding against a third-party servicer, the Secretary also may begin a fine, limitation, suspension, or termination proceeding against any institution under whose contract a third-party servicer commits the violation.

(b) *Procedures.* (1) A designated department official begins a fine proceeding by sending the institution or servicer, as applicable, a notice by certified mail, return receipt requested. In the case of a fine proceeding against a third-party servicer, the official also sends the notice to each institution that is affected by the alleged violations identified as the basis for the fine action, and, to the extent possible, to each institution that contracts with the servicer for the same service affected by the violation. This notice—

(i) Informs the institution or servicer of the Secretary's intent to fine the institution or servicer, as applicable, and the amount of the fine and identifies the alleged violations that constitute the basis for the action;

(ii) Specifies the proposed effective date of the fine, which is at least 20

¹As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note).

days from mailing of the notice of intent;

(iii) Informs the institution or servicer that the fine will not be effective on the date specified in the notice if the designated department official receives from the institution or servicer, as applicable, by that date a written request for a hearing or written material indicating why the fine should not be imposed; and

(iv) In the case of a fine proceeding against a third-party servicer, informs each institution that is affected by the alleged violations of the consequences of the action to the institution.

(2) If the institution or servicer does not request a hearing but submits written material, the designated department official, after considering that material, notifies the institution or, in the case of a third-party servicer, the servicer and each institution affected by the alleged violations that—

(i) The fine will not be imposed; or

(ii) The fine is imposed as of a specified date, and in a specified amount.

(3) If the institution or servicer requests a hearing by the time specified in paragraph (b)(1)(iii) of this section, the designated department official sets the date and the place. The date is at least 15 days after the designated department official receives the request.

(4) A hearing official conducts a hearing in accordance with § 668.88.

(c) *Expedited proceedings.* With the approval of the hearing official and the consent of the designated department official and the institution or servicer, any time schedule specified in this section may be shortened.

(Authority: 20 U.S.C. 1094)

[59 FR 22446, Apr. 29, 1994, as amended at 67 FR 69655, Nov. 18, 2002]

§ 668.85 Suspension proceedings.

(a) *Scope and consequences.* (1) The Secretary may suspend an institution's participation in a Title IV, HEA program or the eligibility of a third-party servicer to contract with any institution to administer any aspect of the institution's participation in any Title IV, HEA program, if the institution or servicer—

(i) Violates any statutory provision or applicable to Title IV of the HEA, any regulatory provision prescribed

under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA; or

(ii) Substantially misrepresents the nature of—

(A) In the case of an institution, its educational program, its financial charges, or the employability of its graduates; or

(B) In the case of a third-party servicer, as applicable, the educational program, financial charges, or employability of the graduates of any institution that contracts with the servicer.

(2) If the Secretary begins a suspension proceeding against a third-party servicer, the Secretary also may begin a fine, limitation, suspension, or termination proceeding against any institution under whose contract a third-party servicer commits the violation.

(3) The suspension may not exceed 60 days unless—

(i) The institution or servicer and the Secretary agree to an extension if the institution or servicer, as applicable, has not requested a hearing; or

(ii) The designated department official begins a limitation or termination proceeding under § 668.86.

(b) *Procedures.* (1) A designated department official begins a suspension proceeding by sending a notice to an institution or third-party servicer by certified mail, return receipt requested. In the case of a suspension proceeding against a third-party servicer, the official also sends the notice to each institution that contracts with the servicer. The designated department official may also transmit the notice by other, more expeditious means if practical. The notice—

(i) Informs the institution or servicer of the intent of the Secretary to suspend the institution's participation or the servicer's eligibility, as applicable, cites the consequences of that action, and identifies the alleged violations that constitute the basis for the action;

(ii) Specifies the proposed effective date of the suspension, which is at least 20 days after the date of mailing of the notice of intent;

(iii) Informs the institution or servicer that the suspension will not be